

# STATE OF NEW YORK

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1765

2023-2024 Regular Sessions

## IN SENATE

January 13, 2023

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Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, in relation to providing for the determination of legal regulated base date rent for certain purposes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of paragraph 1 of subdivision a of  
2 section 12 of section 4 of chapter 576 of the laws of 1974, constituting  
3 the emergency tenant protection act of nineteen seventy-four, as amended  
4 by section 1 of part F chapter 36 of the laws of 2019, is amended to  
5 read as follows:

6 Subject to the conditions and limitations of this paragraph, any owner  
7 of housing accommodations in a city having a population of less than one  
8 million or a town or village as to which an emergency has been declared  
9 pursuant to section three, who, upon complaint of a tenant or of the  
10 state division of housing and community renewal, is found by the state  
11 division of housing and community renewal, after a reasonable opportunity  
12 to be heard, to have collected an overcharge above the rent authorized  
13 for a housing accommodation subject to this act shall be liable to  
14 the tenant for a penalty equal to three times the amount of such over-  
15 charge. If the owner establishes by a preponderance of the evidence  
16 that the overcharge was neither willful nor attributable to his negligence,  
17 the state division of housing and community renewal shall establish  
18 the penalty as the amount of the overcharge plus interest at the  
19 rate of interest payable on a judgment pursuant to section five thousand  
20 four of the civil practice law and rules. After a complaint of rent  
21 overcharge has been filed and served on an owner, the voluntary adjustment  
22 of the rent and/or the voluntary tender of a refund of rent over-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 charges shall not be considered by the division of housing and community  
2 renewal or a court of competent jurisdiction as evidence that the over-  
3 charge was not willful. (i) Except as to complaints filed pursuant to  
4 clause (ii) of this paragraph, the legal regulated rent for purposes of  
5 determining an overcharge, shall be deemed to be the rent indicated in  
6 the most recent reliable annual registration statement for a rent stabi-  
7 lized tenant filed and served upon the tenant six or more years prior to  
8 the most recent registration statement, (or, if more recently filed, the  
9 initial registration statement) plus in each case any subsequent lawful  
10 increases and adjustments. The division of housing and community  
11 renewal or a court of competent jurisdiction, in investigating  
12 complaints of overcharge and in determining legal regulated rent, shall  
13 consider all available rent history which is reasonably necessary to  
14 make such determinations. If there is an overcharge, the legal regulated  
15 base date rent at the four-year lookback shall be determined by either  
16 the survey sampling method or the default method if there is fraud. (ii)  
17 As to complaints filed within ninety days of the initial registration of  
18 a housing accommodation, the legal regulated rent for purposes of deter-  
19 mining an overcharge shall be deemed to be the rent charged on the date  
20 six years prior to the date of the initial registration of the housing  
21 accommodation (or, if the housing accommodation was subject to this act  
22 for less than six years, the initial legal regulated rent) plus in each  
23 case, any lawful increases and adjustments. Where the rent charged on  
24 the date six years prior to the date of the initial registration of the  
25 accommodation cannot be established, such rent shall be established by  
26 the division.

27 § 2. This act shall take effect immediately.